

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

No. 1:23-mj-00230

v.

Hon. Ray Kent
United States Magistrate Judge

ANDREW BLAIR HOWARD,

Defendant.

_____ /

JOINT REVISED ELEMENTS OF LAW

The parties jointly provide the Court with the following joint revised elements of law in anticipation of trial. Mr. Howard is charged by Class B Misdemeanor Information with one count of tampering (Count 1) and one count of vandalism (Count 2), under Title 36 C.F.R. § 2.31(a)(2) and (3) respectively.

For Count 1 (tampering), the government must prove the following elements:

1. Defendant tampered or attempted to tamper with property or real property; or moved, manipulated, or set in motion any of the parts thereof . . . except when such property is under one's lawful control or possession;¹ and
2. The offense occurred in waters subject to the jurisdiction of the United States located within the boundaries of the National Park System, including navigable waters and areas within their ordinary reach . . .

¹ 36 C.F.R. § 2.31(a)(2).

without regard to the ownership of submerged lands, tidelands, or lowlands.²

For Count 2 (vandalism), the government must prove the following elements:

1. Defendant destroyed, injured, defaced, or damaged property or real property.³
2. The offense occurred in waters subject to the jurisdiction of the United States located within the boundaries of the National Park System, including navigable waters and areas within their ordinary reach . . . without regard to the ownership of submerged lands, tidelands, or lowlands.⁴

The parties have stipulated to the following in Stipulation No. 1:

Defendant's actions at issue in this matter—which occurred on or about August 15, 2022—occurred within waters subject to the jurisdiction of the United States located within the boundaries of the National Park System (Sleeping Bear Dunes National Lakeshore), which includes navigable waters and areas within their ordinary reach. The actions at issue occurred in Benzie County, in the Southern Division of the Western District of Michigan.

Therefore, because of this stipulation, the only element at issue at trial for each of the counts (both tampering and vandalism) is the first element for each offense.

² 36 C.F.R. 1.2(a)(3).

³ 36 C.F.R. § 2.31(a)(3).

⁴ 36 C.F.R. 1.2(a)(3).

Respectfully submitted,

MARK A. TOTTEN
United States Attorney

Dated: January 31, 2024

/s/ Lauren F. Biksacky
LAUREN F. BIKSACKY
Assistant United States Attorneys
P.O. Box 208
Grand Rapids, MI 49501-0208
(616) 456-2404

/s/ Tony Valentine (with permission)
TONY VALENTINE
227 Federal Square Building
29 Pearl Street, NW
Grand Rapids, MI 49503